IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. REV. No.838 of 2006
MUNNA RAI
Versus
STATE OF BIHAR
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3 26.8.2008 This revision application has been preferred against the impugned order dated 26.2.2002 passed by the learned District Judge, Buxar in Criminal Appeal No.1 of 2002 thereby the order dated 11.1.2002 passed by the Additional Chief Judicial Magistrate, Buxar in Barahampur (K.Braham) P.S.case No.81 of 2000 refusing to declare the petitioner as juvenile has been confirmed.

The petitioner is one of the accused in the aforesaid case registered under Section 302/34 along with other Sections of the Indian Penal Code. The petitioner claims himself as juvenile on the date of alleged occurrence as being less than sixteen years. However, the learned Additional Chief Judicial Magistrate after inquiry found the petitioner's age more than eighteen years on the date of alleged occurrence and hence refused to declare him as juvenile.

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The petitioner preferred appeal before the Sessions Judge and the Sessions Judge also dismissed the appeal. Thereafter the petitioner allowed the trial to proceed treating himself as not juvenile. The trial is at final stage. After five years of rejection of appeal in question the petitioner has preferred this revision challenging the order passed in the aforesaid appeal.

Heard learned counsel for both parties.

Learned counsel for opposite arty no.2 has raised preliminary objection. It is submitted that this revision has been filed much after

lapse of period of limitation of ninety days without any explanation and hence this revision is not maintainable.

On the other hand, it is submitted by the learned counsel for the petitioner that Section 53 of the Juvenile Justice (Care and Protection of Children) Act, 2000 provides for filing revision in which no period of limitation has been prescribed whereas for appeal period for thirty days has been prescribed. It is further submitted that Juvenile Justice Act being special Act, the provision of limitation Act in filing of revision is not applicable and hence as per Section 53 of Juvenile Justice Act the revision is maintainable.

Section 53 of the Juvenile Justice Act runs as follows;

" 53.Revision – The High Court may, at any time, either of its own motion or on an application received in this behalf, call for the record of any proceeding in which any competent authority or Court of Sessions has passed an order for the purpose of satisfying itself as t the legality or propriety of any such order and may pass such order in relation thereto as it thinks fit;

Provided that the high Court shall not pas an order under this section prejudicial to any person without giving him a reasonable opportunity of being heard.

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It is quite apparent from the Section that no specific period has been provided for filing the revision. On the other hand the word 'at any time' has been mentioned.

The word 'at any time, is indicative of the fact that it has overriding effect over the Law of limitation. However, it does not mean that it gives power in the hand of aggrieved person to exercise his right of filing revision at his sweet will. It has to be exercised within reasonable time. What is reasonable time in a given case depends on the facts and circumstances of each case.

In this case as stated above, the petitioner has preferred this revision after more than five years and that too at the fag end of the trial. The petitioner had no grievance earlier to be tried as major for five years after disposal of the appeal refusing him to declare as juvenile.

In the facts and circumstances of the case, this Court is of the opinion that the filing of revision after five years is not justified. Apparently it has been filed to delay the disposal of the case.

This Court in Ram **Mukhiya and Ors Vs. State of Bihar and Ors reported in 2002(4) PLJR** 513 has expressed the identical view. In paragraph 5 it has been observed as follows;

"To my mind, the learned Registrar was clearly in error in fixing a period of limitation of six months when there was no limitation prescribed by the Statute. In the absence of any statutory prescription it is not open to the Registrar or to a court to import a fixed and inflexible period of limitation The law is well settled on his point. This is, however, not to say that in matters where the Statute does not fix a period of limitation, it is open to a person seeking relief to approach the court/authority on his won sweet will and a long time after the cause of action had arise. It is equally well settled that relied can be denied to a person on grounds of larches and unexplained delay in approaching a court. Even in matters where there is no limitation fixed by the statute, it is incumbent upon the person seeking relief to approach the court expeditiously and without any undue delay and as soon as may be practicably possible since the arising of the cause of action. A case may be thrown out on grounds of unexplained delay even though filed within a period of much less than six months and in case the delay is explained satisfactorily, a claim may be entertained even after year or more."

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Thus, in view of the above facts and circumstances as well as law, this Court is of the view that this revision application is not maintainable and is fit to be rejected. Accordingly, this revision application is dismissed.

B.Jha **(Ghanshyam Prasad)**